

is an extraordinary circumstance; (2) that the Magistrate Judge mischaracterized a letter regarding his father's interaction with the state judge presiding over his case and this constitutes a mistake or fraud; (3) petitioner's "legal assistant" was not available to help him and this is another extraordinary circumstance; and (4) that the Magistrate Judge lacked legal jurisdiction to consider his claim because he did not consent to magistrate judge jurisdiction.

None of Petitioner's claims warrant relief from judgment. A written disposition on an attached inmate grievance form shows that prison records do not reflect any mail being processed to be sent to the United States Courthouse in San Antonio on the dates alleged by Petitioner.² The Magistrate Judge's alleged mischaracterization of the letter in question does not rise to a level sufficient to warrant relief from judgment. That Petitioner lacked assistance from a knowledgeable inmate is not a proper ground for relief. Finally, the Magistrate Judge had jurisdiction to evaluate Petitioner's claims and issue a memorandum and recommendation for final disposition by the district court pursuant to 28 U.S.C. § 636(b), Federal Rule of Civil Procedure 72(b), and Rule 1 of Appendix C to the Local Rules for the United States District Court for the Western District of Texas.

For the aforementioned reasons, Petitioner's motion is DENIED.

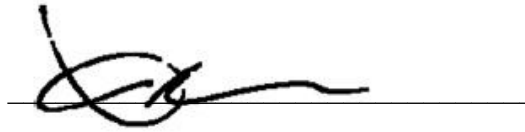
(4) the judgment is void; (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or (6) any other reason that justifies relief.

FED. R. CIV. P. 60(b).

²In any case, what appears to be a copy of the Petitioner's objections, attached as Exhibit C to his motion, provide nothing more than conclusory statements about innocence. Petitioner's objection is not specific and the memorandum and recommendation would therefore be accepted because it is neither clearly erroneous nor contrary to law.

It is so ORDERED.

SIGNED this 12th day of July, 2010.

A handwritten signature in black ink, appearing to read 'Xavier Rodriguez', is written over a horizontal line.

XAVIER RODRIGUEZ
UNITED STATES DISTRICT JUDGE